

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File Number EB-03-TP-035
)	
Donald Donovan Jackson)	NAL/Acct. No.200332700023
1418 27th Ave South)	
St. Petersburg, Florida)	FRN 0008909301

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: May 14, 2003

By the Enforcement Bureau, Tampa Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find Donald Donovan Jackson apparently liable for forfeiture in the amount of twenty thousand dollars (\$20,000) for willful and repeated violation of Section 301 of the Communications Act of 1934, as amended (“Act”).¹ Specifically, we find Donald Donovan Jackson apparently liable for the operation of an FM broadcast station on the frequency 102.1 MHz without Commission authorization.

II. BACKGROUND

2. On November 8, 2002, the FCC Enforcement Bureau’s Tampa Field Office (“Tampa Office”) received a complaint alleging that a pirate radio station operated on 102.1 MHz in the St. Petersburg, Florida area. A search of Commission records showed no FM radio station licensed on 102.1 MHz in the St. Petersburg, Florida area.

3. On November 23, 2002, agents from the Tampa Office investigated the complaint and, using direction-finding techniques, determined that a radio broadcast station operated on the frequency 102.1 MHz from a commercial office building located at 21 9th Street South, Suite #200-D, St. Petersburg, Florida. A ground plane antenna was mounted on a telescoping mast attached to the center of the roof. Based on field strength measurements taken by the agents of the station’s signal, the station required a Commission authorization to operate.² Subsequently, the agents interviewed the owner of the office building who stated that Donald Jackson operated the radio station and provided a copy of a lease agreement showing Donald D. Jackson leased office space in Suite #200-D of the building.

4. On January 15, 2003, agents from the Tampa Office again observed a radio broadcast station operating on 102.1 MHz in the St. Petersburg, Florida area. The agents, using direction-finding techniques, determined again that the station operated from the commercial office building located at 21 9th Street South, Suite #200-D, St. Petersburg, Florida. The agents located and interviewed Donald

¹ 47 U.S.C. § 301.

² See 47 C.F.R. § 15.239(b).

Donovan Jackson, the lessee of Suite #200-D, and conducted an inspection of the radio station. One of the agents recognized Mr. Jackson from a prior investigation in April 2002, as the operator of an unlicensed radio station on the same frequency, 102.1 MHz, operating from a nearby location. At that time, Mr. Jackson received a warning letter for operating an unlicensed radio station on 102.1 MHz. Mr. Jackson stated that he paid the rent of the office suite at 21 9th Street South, Suite #200-D in St. Petersburg, Florida. Mr. Jackson also stated that he used the same FM radio transmitter at the current location as he had used at the previous unlicensed radio station in April 2002. Mr. Jackson stated that after the previous unlicensed radio station was shut down, he received an outcry from the community for Caribbean programming which prompted him to reactivate the radio station at this location. The agents observed that the radio transmitter and equipment rack appeared to be the same as at the prior unlicensed radio station operated by Mr. Jackson in April 2002. The agents traced a coaxial cable from the transmitter and out to the roof mounted antenna. Mr. Jackson explained that the transmitter operated by a timer and demonstrated how he delivered audio programming to the transmitter via a personal computer. Mr. Jackson shut down the station per the agents' request.

III. DISCUSSION

5. Section 301 of the Act sets forth generally that no person shall use or operate any apparatus for the transmission of energy of communications or signals by radio within the United States except under and in accordance with the Act and with a license. On November 23, 2002 and January 15, 2003, Mr. Donald Donovan Jackson operated radio transmitting equipment on the frequency 102.1 MHz without benefit of the required Commission authorization.

6. Based on the evidence before us, we find that on November 23, 2002 and January 15, 2003, Donald Donovan Jackson willfully³ and repeatedly⁴ violated Section 301 of the Act by operating radio transmission apparatus without a license.

7. Pursuant to Section 1.80(b) (4) of the Rules,⁵ the base forfeiture amount for operating a radio station without a Commission authorization is \$10,000 per violation. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b) (2) (D) of the Act, which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁶ Considering the entire record and applying the factors listed above, this case warrants a \$20,000 forfeiture based on Mr. Jackson's history of prior offenses and repeated violations

³ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'willful,' when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act...." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁴ Section 312(f)(2), which also applies to Section 503(b), provides: [t]he term "repeated", when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.

⁵ 47 C.F.R. § 1.80(b)(4).

⁶ 47 U.S.C. § 503(b)(2)(D).

after official warning.

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁷ and Sections 0.111, 0.311 and 1.80 of the Rules,⁸ Donald Donovan Jackson is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of twenty thousand dollars (\$20,000) for willful and repeated violation of Section 301 the Act by operating a radio station without Commission authorization.

9. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NAL, Donald Donovan Jackson SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

10. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this NAL under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁹

11. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Technical & Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC’s Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your

⁷ 47 U.S.C. § 503(b).

⁸ 47 C.F.R. §§ 0.111, 0.311, 1.80.

⁹ See 47 C.F.R. § 1.1914.

response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

14. IT IS FURTHER ORDERED THAT a copy of this NAL shall be sent by regular mail and Certified Mail Return Receipt Requested to Donald Donovan Jackson, 1418 27th Avenue South, St. Petersburg, Florida 33705; and an additional copy to Donald Donovan Jackson, POB 14046, St. Petersburg, FL 33733-4046.

FEDERAL COMMUNICATIONS COMMISSION

Ralph M. Barlow
District Director
Tampa Field Office, Enforcement Bureau

Attachment